

2011 Fact Sheet:

Non-emergency care in the ER

THE ISSUE

Emergency Room services: The Health Care Authority (HCA) plans to stop paying for hospital Emergency Room visits when those visits are not medically necessary for that place of service. As with all services, current Medicaid rules and policies require HCA to only pay for emergency services that are medically necessary. HCA will continue to pay for all visits to the Emergency Room that constitute medical emergencies.

BACKGROUND

Earlier this year, HCA was directed by the Legislature to establish a limit on non-emergency trips to the Emergency Room and to work with Emergency Room physicians and hospitals to define non-emergency conditions. HCA instituted a three-visit limit on non-emergency visits to the ER, effective October 1, under which HCA would pay for three non-emergency visits to the ER, per client, per year. HCA calculated overall savings of approximately \$70 million over the current biennium. But HCA encountered stiff opposition from hospitals, doctors, and advocates, who argued that a proposed list of 700 diagnosis codes used to identify non-emergencies was too extensive. Opponents filed a lawsuit against the new rule and won a ruling in November on grounds that HCA had violated the rule-making provisions of the Administrative Procedure Act by issuing an “emergency” rule that was not truly an “emergency.” The court did not rule on the substance of the ER policy. HCA continued to collaborate with the Emergency Room doctors, hospitals and the medical association to try to develop a solution.

WHAT IS NEW?

In December, the Centers for Medicare and Medicaid Services informed HCA that a different approach would not require a State Plan Amendment and that the Medicaid program could proceed under its existing authority to pay for only medically necessary Emergency Room visits. This means the Emergency Room must be the medically necessary setting for the delivery of care. HCA is currently compiling a list of conditions, represented by approximately 500 diagnosis codes (3.5% of the total codes available). But instead of covering three non-emergency visits to the Emergency Room, Medicaid now will only pay for medically necessary care rendered in the Emergency Room when the Emergency Room is the right setting for that care. When the care should have been rendered in the primary care provider’s office, HCA will not pay for the Emergency Room visit. In short, HCA simply will apply the same standard to the Emergency Room care as it does to all other care. The standard will apply to all emergency room visits for all Medicaid beneficiaries.

The approach will likely be controversial since HCA will not need to go through a rule-making process. Providers should find the list of conditions more acceptable. Since this approach will not require a State Plan Amendment or a change in rule or state law, HCA is tentatively planning for an effective date of April 1, 2012.

Savings from the Emergency Room change are estimated at \$51 million total funds (federal plus state) over the current biennium, slightly below the original savings estimate.

QUICK POINTS: Non-Emergency visits to the Emergency Room

- Beginning early next year, Medicaid will only pay for medically necessary Emergency Room visits.
- The start date has been tentatively set for April 1.
- “Non-medically necessary” visits are those that can be cared for in a primary care office.
- There are no exceptions, no exclusions or age limits. This issue pertains to care delivered within the Emergency Room alone and would not apply to hospital admissions, deaths associated with the Emergency Room, or referrals to other areas of the hospital.
- HCA has discussed these Emergency Room payment processes with the federal Centers for Medicare and Medicaid Services. No State Plan Amendment or WAC change is required.
- Managed care will pay for screening fees; however, Medicaid fee-for-service will not pay these fees for visits when the visit is determined to not be medically necessary.
- Medicaid will continue to meet on a bi-monthly basis with the Emergency Room, Family Medicine and Pediatric Associations, Washington State Medical Association and the Washington State Hospital Association to ensure a successful implementation. The next meeting is scheduled for late January 2012.
- Medicaid will also work with the medical associations on feedback reports to improve access, quality and costs related to Emergency Rooms and community care. This also applies to the hospital association and community planning for “Reductions in Non-Emergent ER visits” as part of the Hospital Quality Assessment.
- Medicaid will also continue its efforts to communicate with clients on appropriate use of the Emergency Room. Clients will continue to be advised that if they believe they are having a medical emergency, they should call 9-1-1 or go to the Emergency Room.
- Medicaid will assess the medical necessity of all visits for clients in the Patients Requiring Coordination (PRC) program, which works with clients who have known Emergency Room and narcotic abuse histories. PRC patients and other frequent ER users will also be assigned case managers by the state.

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